

F-08-01309

The James Madison Project
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26 May 2008

Delores M. Nelson
Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

APPROVED FOR RELEASE ☐
DATE: 18-Aug-2010

MAY 27 2008

Re: State Secrets Privilege regulations, policies, and guidelines

Dear Ms. Nelson:

This is a request on behalf of the James Madison Project under the Freedom of Information Act, 5 U.S.C. § 552, et seq., for copies of all internal Central Intelligence Agency ("CIA") documents, including cross-references, pertaining to regulations, policies, and guidelines governing the CIA's assertion of the State Secrets Privilege in ongoing federal cases, including but not limited to:

- 1) Regulations, policies, or guidelines addressing the question of when and when not to assert this privilege;
- 2) Regulations, policies, or guidelines addressing what information to include in declarations or affidavits submitted to the court in support of the assertion of this privilege; and
- 3) Correspondence, emails, meeting minutes, and records of any discussions regarding these regulations, policies, or guidelines.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please "black out" rather than "white out" or "cut out."

We are hereby requesting a waiver of all fees. The James Madison Project is a non-profit organization under the laws of the District of Columbia and has the ability to disseminate information on a wide scale. Stories concerning our activities have received prominent mention in many publications including, but not limited to, *Washington Post*, *Washington Times*, *St. Petersburg Tribune*, *San Diego Union Tribune*, *European Stars & Stripes*, *Christian Science Monitor*, *U.S. News and World Report*,

"Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives."

James Madison, 1822

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Mother Jones and *Salon Magazine*. Our website, where much of the information received through our FOIA requests is or will be posted for all to review, can be accessed at <http://www.jamesmadisonproject.org>. Most prior requests submitted by our organization have received fee waivers.

Furthermore, there can be no question that the information sought would contribute to the public's understanding of government operations or activities and is in the public interest. The invocation of the State Secrets Privilege, especially by the CIA, is of significant interest to the public. In fact, on February 13, 2007, the House Committee on Oversight and Government Reform held a hearing at which I appeared as an expert witness on the Whistleblower Protection Enhancement Act of 2007 that included provisions pertaining to the State Secrets Privilege. Never before have any of the declarations or affidavits submitted by an agency head been released to the public, and yet many have led to the dismissal of the stated lawsuits and the contents of the requested records contributed if not outright mandated that result. Because of the enormous power of this privilege, the policies and regulations used by the CIA to determine when to assert the privilege and what information to cite in the supporting declarations or affidavits would significantly contribute to the public's understanding of government operations and activities.

Please respond to this request within 20 working days as provided for by law. Failure to timely comply may result in the filing of a civil action against your agency in the United States District Court for the District of Columbia. Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact Kel McClanahan at KellyBMcC@gmail.com or 301-728-5908.

Finally, please have all return correspondence addressed specifically to my attention to ensure proper delivery.

Sincerely,



Mark S. Zaid
Executive Director

MSZ/km

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James Madison, 1822

FAX COVER SHEET

TO

Delores Nelson

FROM

Kel McClanahan (12406812189)

DATE

05/27/2008

COVER MESSAGE
